

# UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO. FILING DATE		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/650,560 08/28/2003		08/28/2003	Eric D. Fox	073897.0140	7600	
5073	7590	02/25/2005		EXAMINER		
BAKER BO		·		HENDERSO	N, MARK T	
SUITE 600	A V LIVOI	_	ART UNIT	PAPER NUMBER		
DALLAS, 7	ΓX 7520	1-2980	3722			
			,	D. T. T. L. L. L. D O. (0.5/0.00)	DATE MAN ED 02/26/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

1) Responsive to communication(s) filed on 20 December 2004.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-40 is/are pending in the application.  4a) Of the above claim(s) 3-5.10-12,19,21,22,25-30,35,37 and 38 is/are withdrawn from consideration.  5) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  8) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  7) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  8) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  8) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  8) Claim(s) 1, 2,6-8, 13, 16, 17, 23, 24, 31, 39 is/are rejected.  10		· · · · · · · · · · · · · · · · · · ·	Application No.		Applicant(s)					
Mark T Henderson 3722  - The MALLING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  If the period for reply specified does is less than birty (30) days, as reply with the statutory minimum of birty (30) days will be considered timely.  If the period for reply specified does is less than birty (30) days, as reply with less statutory minimum of birty (30) days will be considered timely.  If the period for reply specified does is less than the construction of the statutory priority will apply will will apply (30) (40) MONTES from the malling date of this communication.  A preply received by the Office later than three months affect the malling date of this communication, even if timely filed, may reduce any seamled patient the adjustment. Set 37 CFR 1,70(b).  Status  1) ■ Responsive to communication(s) filed on 20 December 2004.  2a) ■ This action is FINAL.  2b) ■ This action is non-final.  3) ■ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ② Claim(s)			10/650,560	F	FOX, ERIC D.					
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extransions of them may be available under the provisions of 32 CFR 1708(a). In ore event, however, may a reply be timely filled  Extransions of them may be available under the provisions of 32 CFR 1708(a). In ore event, however, may a reply be timely filled  If the period for reply specified above is less than bitty (30) days, a reply within the studency minimum of thirty (30) days, will be considered timely.  If the period for reply specified above is less than bitty (30) days, a reply within the studency minimum of their (30) days will be considered timely.  If the period for reply specified above is less than bitty (30) days, a reply within the studency minimum of their (30) days will be considered timely.  If the period for reply specified above is less than bitty (30) days, a reply within the studency may be sufficient to become ABANDONED (SU SLS, 5) 133).  Status  I) Responsive to communication(s) filled on 20 December 2004.  2a) Responsive to communication (5) filled on 20 December 2004.  3a) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1.40 is/are pending in the application.  4a) Of the above claim(s) 3.510-12.19.21.29.21.22.25-30.35.37 and 38 is/are withdrawn from consideration.  5b) Claim(s) 1.2.6-8.73.16.17.23.24.31.39 is/are rejected.  7b) Claim(s) 1.2.6-8.73.16.17.23.24.31.39 is/are rejected.  7c) Claim(s) 1.2.6-8.73.16.17.23.24.31.39 is/are rejected to Diple date to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the cornection is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The drawing(s) filed on			appears on the cover	sheet with the cor	respondence a	ddress				
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# **DETAILED ACTION**

## Faxing of Responses to Office Actions

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9306. This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claims 3-5, 10-12, 19, 21, 22, 25-30, 35, 37, and 38 have been withdrawn from further consideration. Claims 1, 7, 15, 16, and 23 have been amended for further examination.

#### Election/Restriction

2. This application contains claims 3-5, 10-12, 19-22, 25-30, 35-38 and 40 are drawn to an invention nonelected with traverse in Paper No. 6/18/04. A complete reply to the final rejection

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Art Unit:

must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

# Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1 and 6 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al (5,777,305)

Smith et al discloses in Fig. 1-3, a card product comprising providing a card (1) having a recess (17, as stated in Col. 3, lines 15 and 16) disposed within the card and operable for receiving and removing an item (3); a magnetic stripe (11) disposed on the card separate from a location of the recess disposed within the card, wherein the magnetic stripe is operable to store information; and wherein a portion (5) of the card (seen in Fig. 1) is at least partially transparent to make the item (3) visible through the face of the card.

Art Unit:

In regards to the identification card being operable to identify the cardholder and issuer, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Therefore, the card of Smith et al is capable of being operable to identify the cardholder and issuer.

4. Claims 1, 2, 6-8, 13, 16, and 17 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Gunn (5,503,434).

Gunn discloses in Fig. 1, 2, 5 and 34, an identification card (180) and a method of securing an item comprising having a recess or cavity (182 as seen in Fig. 34) disposed within the card on a first face (180A) and operable for receiving and removing an item (as stated in Col. 9, lines 8-12); a magnetic stripe (54) disposed on the card separate from a location of the recess disposed within the card, wherein the magnetic stripe (54) is operable to store information; a transparent cover portion (184) adhesively secured (Col. 9, line 14) to the card and wherein a portion (5) of the card (seen in Fig. 1) is at least partially transparent to make the item (3) visible through the face of the card.

Art Unit:

#### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claim 23, 24, 31 and 39 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Gunn in view of Rubincam.

Gunn discloses in Fig. 1, 2, 5 and 34, an identification card (180) and a method of securing an item or insert (such as a photograph or visual readable means) comprising having a recess or cavity (182 as seen in Fig. 34) disposed within the card on a first face (180A) and operable for receiving and removing an item (as stated in Col. 9, lines 8-12); a magnetic stripe (54) disposed on the card separate from a location of the recess disposed within the card, wherein the magnetic stripe (54) is operable to store information; a transparent cover portion (184) adhesively secured (Col. 9, line 14) to the card and wherein a portion (5) of the card (seen in Fig. 1) is at least partially transparent to make the item (3) visible through the face of the card.

However, Gunn does not disclose: wherein the insert is coupleable to a picture to permit the picture to be inserted and removed from the recess.

Art Unit:

Rubincam discloses in Fig. 3, an insert (30) coupleable to a picture (32, as stated in Col. 2, lines 47-58).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gunn's card with an insert that is coupleable to a picture as taught by Rubincam for providing an insert having a picture which can be interchangeable.

### Allowable Subject Matter

6. Claim 9, 14, 15, 18, and 32-34 are finally objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### Prior Art References

The prior art references listed in the attached PTO-892, but not used in a rejection of the claims, are cited for (their/its) structure. McIntire et al, Martin, Metzger and Riley disclose similar identification cards.

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## Response to Arguments

7. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

The examiner has used the Smith et al reference to reject Claims 1 and 6. Smith et al disclose a card having a recess (which is formed through the sheath (15)), a magnetic strip, and a transparent portion. The examiner has also used the Gunn reference which discloses an identification card having a recess, a magnetic strip and a transparent cover. The examiner's rejection have been maintained.

#### Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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action.

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final

#### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571)272-4477. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, Derris Banks, can be reached on (571) 272-4419. The fax number for TC 3700 is (703)-872-9306.

MTH

February 18, 2005

MONICAS. CARTER